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SUBJECT: Ministerial Committee on the Rule of Law and Detention
Ordered to Cooperate to Address Detainee Issues

¶1. (SBU) Summary: Iraq's Chief Judge ordered Iraq's ministries to cooperate in processing detainee cases at the Ministerial Committee on the Rule of Law and Detention June 17. The committee, made up of representatives from the Higher Judicial Council, Ministry of Justice, Ministry of Interior, Ministry of Labor and Social Affairs and the Ministry of Defense, had been perceived as ineffective due to its failure to attract high-level decision makers to its meetings. The Chief Judge's guidance, if implemented, would reduce overcrowding of jails and prisons and improve case processing. End summary.

¶2. (SBU) Medhat Al Mahmoud, Chief Justice of Iraq and President of the Higher Judicial Council and the leading figure in Iraq's judicial system, made a rare appearance at the committee and initiated the discussion by forcefully noting displeasure with the overcrowding of prisons and jails with detainees held without judicial action or legal authority. He emphasized that the Iraqi judiciary could not solve detention overcrowding or delays in case processing without the cooperation of other ministries, and stated that the problems were occurring only in Iraq's capital and not in its provinces.

¶3. (SBU) The Ministry of Justice (MOJ) representative stated that many detention orders need to be renewed and the absence of information in investigative files makes it difficult to process the cases. Regarding the Ministry of Defense (MOD), Chief Judge Medhat stressed that Defense is not authorized to detain anyone longer than 72 hours and is not authorized or trained to investigate cases. The law requires the MOD to turn over detainees to the Ministry of Interior (MOI), which is responsible for completing investigative files and transferring detainees to the MOJ. The MOJ is responsible in turn for detaining, caring for, and transporting detainees to court while the MOI gathers the necessary information to present the case to an investigative judge. If the evidence is not sufficient to refer a case to trial, then by law the detainee must be released.

¶4. (SBU) Chief Judge Medhat identified several cases where the MOI ignored or refused to answer requests for additional information from investigative or trial judges, or failed to bring a detainee to court. He noted that if a judicial release order is issued, the detainee must be released unless another charge is pending. Judicial release orders must be filed with the MOI Criminal Records Office, and Chief Judge Medhat directed the MOI to develop a website that will allow for an expeditious wants and warrants check. He ordered that any new charge must be brought against the detainee within seven days from the date of the release order. If not, the detainee must be released.

¶5. (SBU) According to Chief Judge Medhat, the investigating authority will be held accountable for giving false information to hold a detainee or for failing to provide timely information on a detainee who should have been held but was released. Chief Judge Medhat also noted that after two unanswered requests for information or for a government witness, investigative judges and trial courts

will dismiss the case against the detainee and issue a release order. A detainee, under this circumstance, must be immediately released.

¶6. (SBU) Chief Judge Medhat said he would mobilize all of the judges and prosecutors in Baghdad to resolve the delays in detention cases. He emphasized the need for cooperation among the ministries Qand specifically requested that the media report the complete facts and details of the meeting.

¶7. (SBU) Comment: Chief Judge Medhat's guidance, direction, and orders at the committee meeting, if implemented and enforced, could represent significant progress toward reducing detention overcrowding and improving case processing. While there have been numerous false starts in this effort, the meeting was an indication that the issue may be attracting higher level attention by GOI leaders. We will continue to monitor the situation closely.

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